

Agenda Item	
A-1	No one wished to be heard during the Open Comment Period.
B-1	President John Hunziker called the meeting to order at 7:00 P.M. with the following members present: Councilmembers Dennis Hanson, Marcia Marcoux, Jean McConnell, Sandra Means, Bob Nowicki, Walter Stobaugh. Absent: None. Mayor Ardell F. Brede was absent.
D-1-22	Councilmembers Hanson moved, Stobaugh seconded, to approve the following consent agenda items.
D-1	Approved the minutes of the March 15 and April 5, 2004, Council meetings.
D-2	See at end of D Items.
D-3	Approved the transfer of \$25,000 from the 2004 Contingency Account to fund the City of Rochester's share of the roadway network data base project.
D-4	Adopted Amended Joint Resolution No. 175-04 for Orderly Annexation with Marion Township for the Chester Heights area and amended the Subordinate Service District Sanitary Sewer Connection Agreement with Olmsted County.
D-5	Approved accepting the funding of \$674,000 from the Department of Housing and Urban Development for 2004 Community Development Block Grant Award.
D-6	See at end of D Items.
D-7	Approved Accounts Payable in the amount of \$4,045,162.87 and Investment Purchases of \$10,406,249.64.
D-8	Adopted Resolution No. 176-04 authorizing the City Clerk to advertise for a light-duty rescue truck for the Fire Department.
D-9	Adopted Resolution No. 177-04 amending the parkland dedication conditions for R & L Partnership for Scenic Oaks 1 <sup>st</sup> and Scenic Oaks 2 <sup>nd</sup> to cash in lieu of land in the amount of \$46,640 for Scenic Oaks 1 <sup>st</sup> and \$12,750 for Scenic Oaks 2 <sup>nd</sup> .
D-10	Adopted Resolution No. 178-04 approving the Wetland Delineation and Replacement Plan for the former ABC Property at 41 <sup>st</sup> Street N.W. and West Circle Drive.
D-11	See at end of D Items.
D-12	Accepted the donation of \$600 from MADD of Olmsted County for equipment and related supplies to reimburse the Rochester Police Department in combating the DUI problem.
D-13	Adopted Resolution No. 179-04 authorizing the advertising of bids for Project No. 6316-4-97 (J-2261) "Reconstruct 16 <sup>th</sup> Avenue N.W. from Civic Center Drive to 500 ft North".

RECORD OF OFFICIAL PROCEEDINGS OF THE COMMON COUNCIL  
CITY OF ROCHESTER, MINNESOTA  
Regular Adjourned Meeting No. 9 – April 19, 2004

7042

Agenda Item	
D-14	Adopted Resolution No. 180-04 awarding the contract for Project No. M1-27 (J-9788) "Sanitary Sewer and Watermain Extension to Serve the Thomas Subdivision Area" and Project No. M1-28 (J-9789) "Sanitary Sewer and Watermain Extension to Serve the Welch Subdivision Area" to Heselton Construction for \$897,933.50.
D-15	Adopted Resolution No. 181-04 awarding the contract for Project No. M1-95 (J-9869) "Bear Creek Sub-trunkline Sanitary Sewer to Serve Portions of Sewer District 16 in Marion Township, Phase I" to McHugh Excavating for \$219,821.10.
D-16	Adopted Resolution No. 182-04 adding street segments along Stone Point Drive, Jade Place, and Stone Hedge Drive N.E. to the City's Municipal State Aid System.
D-17	Adopted Resolution No. 183-04 authorizing execution of a Licensing Agreement with the DM&E Railroad for construction of storm water pipes across their right-of-way.
D-18	Adopted Resolution No. 184-04 approving the Annexation and Utility Connection Agreement with Rochester Precision Machine, Inc. located within the Chester Heights Sanitary Sewer District.
D-19	Adopted Resolution No. 185-04 approving the annexation of the north 60 feet of the Western Walls parcel for the right of way of 55 <sup>th</sup> Street.
D-20	Adopted Resolution No. 186-04 approving the City/Owner Contract with Stonehedge Development, LLC and Elcor Construction, Inc. for Project No. J-5132 "Construction in Stonehedge Estates Third Subdivision".
D-21	Adopted Resolution No. 187-04 approving the City/Owner Contract with Washington Realty, Inc. and Griffin Construction Company, LLP for Project No. J-5113 "Watermain & Hydrants to Serve Ziegler, Inc. aka Rochester Services".
D-22	Adopted Resolution No. 188-04 authorizing the Mayor and City Clerk to execute the Development Agreement with L.B. Electric, Inc. for property located in the NW 1/4 of Section 4, Township 106N, Range 13W.
D-23	Adopted Resolution No. 189-04 entering into a contract with BKBM Engineers of Minneapolis to conduct a condition survey and report for the Second Street Parking Ramps at a cost of \$22,550.
D-24	Adopted Resolution No. 189A-04 approving Change Order #1 for \$17,427 with Knutson Construction for the First Street Ramp Expansion.
	Ayes (7), Nays (0). Motion carried.
D-2	Councilmember Means said that the proposed brochure that is to be developed by RAEDI will promote Rochester and have an overall impact on business and recruitment for personnel.

Agenda Item	
D-6	<p>Councilmember Means moved, Hanson seconded, to approve the appropriation of \$4000 from the 2004 Contingency Account to assist funding a RAEDI economic development brochure. Ayes (7), Nays (0). Motion carried.</p> <p>Councilmember Stobaugh stated that he is a member of the Art Center Board and would be abstaining from voting on the Art Center parade permit.</p> <p>Councilmembers Marcoux moved, Nowicki seconded, to approve the following licenses and miscellaneous activities.</p> <p><u>Circus</u> Rochester Jaycees – Circus at Mayo Civic Center – April 28, 2004</p> <p><u>Dance – Temporary</u> Police Activity League – Graham Arena – May 22, 2004 Edward Tamez – Mexican Celebration – Graham Arena – May 28, 2004</p> <p><u>Gambling – Temporary</u> St. Pius X Catholic Church – Raffle – May 21, 2004 International Association of Administrative Professionals – Bingo at Olmsted County Fair – August 2 through 8, 2004</p> <p><u>Heating Contractor</u> AirCorps LLC, Plymouth, Mn. Complete Plumbing &amp; Heating Service, Rochester</p> <p><u>Master Installer</u> James Turpin, Carver, Mn. Jeff Engelken, Rochester</p> <p><u>Sewer &amp; Drains</u> Rochester Construction Company, Hugo, Mn. Skeeter Enterprises, Inc, Chatfield Lester Windhorst Construction, Zumbro Falls Preferred Sewer &amp; Water, Inc., Rochester</p> <p><u>Sound Amplification</u> Boomers Lounge, 3737 40<sup>th</sup> Avenue NW – Outdoor Band – May 22, 2004 – 2:00 to 8:00 PM Police Athletic League – Custom Car Show at Silver Lake – May 22, 2004 – 9:00 AM to 2:00 PM Roland Chapman – Birthday Party at Cooks Park – June 5, 2004 – 4:00 to 9:00 PM Rochester Floral &amp; Gift, 3110 Wellner Lane NE – Grand Opening – April 24, 2004 – 1:00 to 5:00 PM</p> <p><u>Outdoor Dining</u> Stondler's Café, Rochester</p>

Agenda Item	
	<p><u>Miscellaneous City Activities</u></p> <p>Rochester Art Center – Parade for Opening – May 8, 2004 – 9:00 to 10:00 AM</p> <p>Police Athletic League – Custom Car Show at Silver Lake – May 22, 2004 – 9:00 AM to 2:00 PM</p> <p>Roland Chapman – Birthday Party at Cooks Park – June 5, 2004 – 4:00 to 9:00 PM</p> <p>National Alliance for the Mentally Ill – Walk for Mental Illness at Silver Lake Park – May 22, 2004</p> <p>Boomers Lounge, 3737 40<sup>th</sup> Avenue NW – Outdoor Band – May 22, 2004 – 2:00 to 8:00 PM – use of cul-de-sac for dance area.</p> <p>Ayes (6), Nays (0), Abstain (1). Motion carried. Councilmember Stobaugh abstained only as to the Rochester Art Center matter.</p> <p>D-11 Councilmembers Nowicki asked for clarification on the recommendation on the need for an Environmental Impact Statement for the Willow Creek Commons EAW.</p> <p>Councilmembers Nowicki moved, Stobaugh seconded, to adopt Resolution No. 190-04 declaring a negative impact statement is not needed for the Willow Creek Commons. Ayes (7), Nays (0). Motion carried.</p> <p>I-1 Councilmember McConnell read a letter he has written to Charter Communications noting his disgust and pointing out the number of complaints that have been received because Charter Communications will not negotiate a contract with Victory Sports to the Minnesota Twins baseball games locally. He asked other Councilmembers to sign the letter that will then be forwarded to Charter Communications.</p> <p>E-1 A Continued Hearing on Vacation Petition #03-10, Marigold Foods, LLC to vacate right of way located west of West Silver Lake Drive and south of 5<sup>th</sup> Street NE.</p> <p>The applicant requested to continue the item to the May 3, 2004, Council meeting.</p> <p>No one was present wishing to be heard.</p> <p>Councilmembers Hanson moved, Stobaugh seconded, to continue the Hearing on Vacation Petition #03-10, Marigold Foods, LLC to the May 3, 2004, Council meeting. Ayes (7), Nays (0). Motion carried.</p> <p>E-2 A Continued Hearing on Type III, Phase I, Appeal #04-01 of Type III, Phase I, Variance Request #04-05 by Soldiers Field Plaza and Tri-State Outdoor Media Group to allow for the relocation of a sign to the north side of Soldiers Field Plaza in the 800 block of South Broadway.</p> <p>A letter was received from Soldiers Field Plaza and Tri-State Outdoor Media Group asking that their appeal for Variance #04-05 be withdrawn.</p>

Agenda Item	
E-3	<p data-bbox="362 342 1438 443">A Hearing to Consider Amending the CDBG 2003 Action Plan to reallocate \$20,000 for Slum and Blight Removal at 312 South Broadway (former Ace Hardware Building).</p> <p data-bbox="362 478 1438 743">Wishing to be heard was Nicole Pearson, 1301 West Center Street. She is a recent graduate of the University of Minnesota Masters Program in Architecture focusing on Historic Preservation. Ms. Pearson and her husband have purchased the former Ace Hardware Building at 312 South Broadway. The building will be renovated using the Slum and Blight CDBG funds of approximately \$20,000. A Business, called the Urban Studio, will be leasing space on the first floor of the building. She noted that they will comply with all regulations and are excited about bringing the building back to its original historic appeal.</p> <p data-bbox="362 779 1438 911">Terry Spaeth, Administrative Assistant, provided background information on the purpose and use of CDBG Slum and Blight Removal monies. He said that Rochester has a history of using CDBG dollars; i.e., the Hilton Building, the Galleria Building, and Quarry Hill Park.</p> <p data-bbox="362 947 1422 978">Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p data-bbox="362 1014 1438 1077">Councilmembers Hanson moved, Nowicki seconded, to approve the use of \$20,000 of CDBG funds for Slum and Blight Removal at 312 South Broadway. Discussion.</p> <p data-bbox="362 1113 1406 1245">Councilmember McConnell said that the building in question is not in a blighted area. There are others in the downtown area in need of repair but 312 South Broadway is not one of them. He would not be voting for the use of the funds for this purpose.</p> <p data-bbox="362 1281 1438 1413">Councilmember Means stated that initially she was questioning the use of the funds for the renovation of the building but after hearing the testimony and realizing that there are other designations for the CDBG funds, she would be in favor of the proposal.</p> <p data-bbox="362 1449 1438 1549">Councilmember Marcoux said that she would not be voting for the renovation of the building because there are many other extreme needs for rehabilitation housing projects and disability needs.</p> <p data-bbox="362 1585 1373 1648">Ayes (5), Nays (2). Motion carried. Councilmembers Marcoux and McConnell voted nay.</p>
E-4	<p data-bbox="362 1690 1390 1780">A Hearing on Amendment to the Text of the Special District Ordinance for the Historic Campus Special District #5 (History Center) initiated by the Rochester Common Council to permit one sign mounted on an existing accessory building.</p> <p data-bbox="362 1816 1438 1879">President Hunziker removed himself from action on the item. He serves as Director of the Olmsted County History Center.</p> <p data-bbox="362 1915 881 1946">President Pro-Tem McConnell presided.</p>

Agenda Item	
	<p>Wishing to be heard was John Hunziker, 2828 Mayowood Common Street S.W. and Director of the Olmsted County History Center. He said that the sign, mounted on the Stoppel Barn, is used to note significant sponsorship of activities at the History Center. Presently, it notes the people who donated for the new roof on the barn. The sign would be changed several times per year.</p> <p>Wishing to be heard was Don Prow, 1833 16 ½ Street N.W. Mr. Prow said that he is in the billboard business and would give a contribution to the History Center if he could put billboards around town.</p> <p>Councilmember Marcoux asked if there was any concern from the neighborhoods on the visual effect of the signage. Mr. Hunziker said that he has received no comments.</p> <p>Having no one further wishing to be heard, President Pro-Tem McConnell closed the hearing.</p> <p>Councilmembers Hanson moved, Stobaugh seconded, to approve the Amendment to the Text of the Special District Ordinance for the Historic Campus Special District #5 (History Center) and instructed the City Attorney to prepare the required ordinance for adoption. Ayes (6), Nays (0). Motion carried. President Hunziker did not vote.</p> <p>President Hunziker resumed the chair of the meeting.</p>
E-5	<p>A Hearing on Type III, Phase II Incentive Development Preliminary Plat #04-02 by St. Francis Catholic School to permit an addition to the existing school located along the north side of 4<sup>th</sup> Street SE and along the east side of 11<sup>th</sup> Avenue SE.</p> <p>Wishing to be heard was Jose Rivas, Yaggy-Colby, representing the Rochester Catholic Schools. He noted agreement with the three conditions.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Nowicki moved, Marcoux seconded, to adopt Resolution No. 191-04 approving Type III, Phase II Incentive Development Preliminary Plat #04-02 by St. Francis Catholic School with three conditions and waived the final plan review as requested. Ayes (7), Nays (0). Motion carried.</p>
E-6	<p>A Hearing on Type III, Phase II Restrictive Development #04-03 Preliminary Plan by Grassroots Lawn Care, LLC to develop an auto sale and storage lot on property located on the westerly end of the North Frontage Road NW at the end of the cul-de-sac, north of TH 14 West and west of 37<sup>th</sup> Avenue NW.</p> <p>Having no one wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Hanson moved, McConnell seconded, to adopt Resolution No. 192-04 approving Type III, Phase II Restrictive Development #04-03 Preliminary</p>

Agenda Item	
E-7	<p data-bbox="337 352 1438 415">Plan by Grassroots Lawn Care, LLC with three conditions and waiving the final plan review as requested. Ayes (7), Nays (0). Motion carried.</p> <p data-bbox="337 447 1438 552">A Hearing on Preliminary Plat #04-06 by Forbrook-Bigelow Development to be known as Whispering Oaks located along the east side of West Circle Drive and along the south side of 7<sup>th</sup> Street.</p> <p data-bbox="337 583 1438 951">Wishing to be heard was Andy Masterpole, McGhie &amp; Betts, on behalf of the Applicant. He said that they would continue to get a grading permit. As many of the trees as possible will be left within the Plat. Condition #6 addresses the bike path on the east side of Circle Drive. He said that the easement would be granted but asked that the bike path be left until another time; at this time it would be a path going nowhere. Staff said the path could be built now or later and it will be addressed in the development agreement. Mr. Masterpole also addressed the name change from Whispering Oaks to Oakridge Manor as noted in Condition #1(a). Planning has indicated that the proposed name is too similar to two other subdivisions in the City pursuant to Section 64.270 of the Rochester code of Ordinances.</p> <p data-bbox="337 982 1438 1087">Wishing to be heard was Harleth Swanson, 3415 Seventh Street N.W. He asked if the bike path would be put in if it were delayed? Mr. Masterpole said that it is a part of the development agreement and would be built just not at this time.</p> <p data-bbox="337 1119 1438 1182">Wishing to be heard was John Reynolds, 3524 Sixth Place N.W. He said that the developer and contractor are doing a great job and wanted to commend them.</p> <p data-bbox="337 1213 1438 1318">Wishing to be heard was Eric Alter, 3230 Lakeridge Drive N.W. Whispering Oaks will be in his backyard. He asked to see a final plan. He was concerned about the public road that will enter the subdivision from the north.</p> <p data-bbox="337 1350 1438 1654">Wishing to be heard was Andy Masterpole, McGhie &amp; Betts. He showed a drawing of the final plan. The townhomes were defined. There are a total of 44 units. The commercial end has three lots that are R-1 with the remainder as B-5. There is a private road into the upper portion of the subdivision. Mr. Masterpole said that the private road would need to be lowered approximately 100 feet to make the grade in the curve of the road. The neighbors bordering this area will be kept informed. Mr. Masterpole also responded to a question from Councilmember Marcoux on the booster pump saying that it was determined that a booster pump would be needed in each home to minimize pressure loss.</p> <p data-bbox="337 1686 1438 1728">Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p data-bbox="337 1759 1438 1896">Terry Adkins, City Attorney, noted that the name, Whispering Oaks, would not have to be changed. The subdivisions known as Whispering Pine and Whispering Pines Second are in the county rather than the city. Thus, Section 64.270 does not apply. Therefore, Condition #1(a) can be deleted.</p> <p data-bbox="337 1927 1438 1986">Councilmembers Hanson moved, Marcoux seconded, to approve Preliminary Plat #04-06 by Forbrook-Bigelow Development to be known as Whispering Oaks with</p>

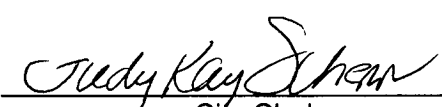
Agenda Item	
	<p>seven conditions, deleting Condition #1a, and instructing the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order. Ayes (7), Nays (0). Motion carried.</p> <p>E-8 A Hearing on Final Plat \$04-10 by Foxfield, LLC to be known as Foxfield Luxury Townhomes located along the west side of 50<sup>th</sup> Avenue NW, south of Middlebrook Drive NW and north of the Weatherstone Development.</p> <p>Wishing to be heard was Jeff Shopket, Maple Grove, representing the applicant. He noted agreement with the staff conditions.</p> <p>Wishing to be heard was Roger Applen, 5102 Middlebrook Drive N.W. He expressed his concern for the pools of water that have developed in the neighborhood approximately three feet deep. He said that they pose a danger for the children.</p> <p>Doug Nelson, Public Works Department, said that he was not aware of the water but would get someone out to look at it.</p> <p>Wishing to be heard was Jeff Shopket, Maple Grove. He said that the grading has just commenced and the standing pools of water will evaporate once the storm sewer drains are in place.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Stobaugh moved, McConnell seconded, to adopt Resolution No. 193-04 approving Final Plat \$04-10 by Foxfield, LLC to be known as Foxfield Luxury Townhomes with five conditions. Ayes (7), Nays (0). Motion carried.</p>
	<p>E-9 A Hearing on Final Plat #04-11 by Stonehedge Land Development, LLC to be known as Stonehedge Estates Third Subdivision located north of East Circle Drive, west of Stone Point Drive NE and east of 35<sup>th</sup> Street NE.</p> <p>Wishing to be heard was Dale Allen, Yaggy-Colby Associates, representing Stonehedge Land Development, LLC. He noted they were in agreement with the five conditions.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Nowicki moved, Marcoux seconded, to adopt Resolution No. 194-04 approving Final Plat #04-11 by Stonehedge Land Development, LLC to be known as Stonehedge Estates Third Subdivision with five conditions. Ayes (7), Nays (0). Motion carried.</p>
	<p>E-10 A Hearing to Consider the Making of Local Improvement Project No. M4-11 (J-7726) "Sanitary Sewer and Watermain Extension to Serve the South Frontage Road of TH14 East from the Knights of Columbus Easterly to the Hundred Acre Woods Development".</p>



Agenda Item	
	<p>Having no one wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Stobaugh moved, Marcoux seconded, to adopt Resolution No. 195-04 approving Local Improvement Project No. M4-11 (J-7726) "Sanitary Sewer and Watermain Extension to Serve the South Frontage Road of TH14 East from the Knights of Columbus Easterly to the Hundred Acre Woods Development". Ayes (7), Nays (0). Motion carried.</p>
F-1	<p>Councilmembers Marcoux moved, Stobaugh seconded, to adopt Resolution No. 196-04 approving the execution of the Employment agreement and Release and the Workers' Compensation Stipulation for Settlement concerning city employee John Wallace. Ayes (7), Nays (0). Motion carried.</p>
G-2a	<p>An Ordinance Amending and Reenacting Subdivision 5 of Section 64F.400 of the Rochester Code of Ordinances, Relating to Sign Regulations for the Historic Campus Special District, was given a first reading. (Amend to Text of Special District Ordinance for Historic Campus Special District #5)</p>
G-3a	<p>An Ordinance Amending the Floodway and Flood Plain Overlay Zoning Districts Incorporated into the Rochester code of Ordinances, Relating to the Re-Designation of Flood Plain Boundaries Associated with the North Run of the North Fork of Cascade Creek, was given a second reading. Councilmembers McConnell moved, Marcoux seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried. (Zoning District Amendment #01-16 - north of 19<sup>th</sup> Street NW and west of West Circle Drive NW)</p>
G3b	<p>An Ordinance Establishing an Interim Zone District on Undeveloped Land upon its Annexation to the City of Rochester, and Amending Ordinance No. 2785, Known as the Zoning Ordinance and Land Development Manual of the City of Rochester, Minnesota, was given a second reading. Councilmembers Marcoux moved, McConnell seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried. (Orderly Annexation #04-07 – North of 30<sup>th</sup> Avenue SE, on the West side of Marion Road, North of 30<sup>th</sup> Street S.E. and Northeast of Pinewood Road S.E.)</p>
G-3c	<p>An Ordinance Rezoning Approximately 1.9 Acres of Property from the R-2 Zoning District to the R-3 Zoning District, and Amending the Ordinance No. 2785, Known as the Zoning Ordinance and Land Development Manual of the City of Rochester, Minnesota, was given a second reading. Councilmembers Marcoux moved, Stobaugh seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried. (Zoning District Amendment #03-28 – east of the TH52 East Frontage Road, north of 26<sup>th</sup> Street NW and south of 30<sup>th</sup> Place NW)</p>
G-3d	<p>An Ordinance Rezoning Approximately 2.41 acres of Property from the R-1 Zoning District to the B-4 Zoning District, and Amending Ordinance No. 2785, Known as the Zoning Ordinance and Land Development Manual of the City of Rochester, Minnesota, was given a second reading. Councilmembers McConnell moved, Means seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried. (Zoning District Amendment #04-02, east side of Wellner Dr NE, west of 6<sup>th</sup> Ave. NE and north of the Rocky Creek Estates Trailer Court)</p>

RECORD OF OFFICIAL PROCEEDINGS OF THE COMMON COUNCIL  
CITY OF ROCHESTER, MINNESOTA  
Regular Adjourned Meeting No. 9 – April 19, 2004

7050

Agenda Item	
G-3e	<p>An Ordinance Rezoning Approximately .43 Acres of Property from the R-1 Zoning District to the B-1 Zoning District, and Amending Ordinance No. 2785, Known as the Zoning Ordinance and Land Development Manual of the City of Rochester, Minnesota, was given a second reading. Councilmembers Stobaugh moved, Marcoux seconded, to adopt the Ordinance as read. Ayes (7), Nays (0). Motion carried. (Zoning District Amendment #04-01, East side of Marion Road and south of 16<sup>th</sup> St. SE)</p>
J-1	<p>Having no further business, Councilmembers Hanson moved, Stobaugh seconded, to adjourn the meeting. Ayes (7), Nays (0). Motion carried.</p> <p style="text-align: right;"> _____ City Clerk</p>